

# **EXHIBIT B**

E-Filed on 04/09/07

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Counsel for USACM Liquidating Trust

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA**

In re:

USA COMMERCIAL MORTGAGE  
COMPANY,

USA CAPITAL REALTY ADVISORS,  
LLC,

USA CAPITAL DIVERSIFIED TRUST  
DEED FUND, LLC,

USA CAPITAL FIRST TRUST DEED  
FUND, LLC,

USA SECURITIES, LLC,

Debtors.

**Affects:**

- ☐ All Debtors
- ☒ USA Commercial Mortgage Company
- ☐ USA Capital Realty Advisors, LLC
- ☐ USA Capital Diversified Trust Deed Fund, LLC
- ☐ USA Capital First Trust Deed Fund, LLC
- ☐ USA Securities, LLC

Case No. BK-S-06-10725-LBR  
Case No. BK-S-06-10726-LBR  
Case No. BK-S-06-10727-LBR  
Case No. BK-S-06-10728-LBR  
Case No. BK-S-06-10729-LBR

**CHAPTER 11**

Jointly Administered Under Case No.  
BK-S-06-10725 LBR

**MOTION FOR ORDER REQUIRING  
BANK OF AMERICA, N.A. TO  
PRODUCE A CUSTODIAN OF  
DOCUMENTS AND A CORPORATE  
REPRESENTATIVE FOR  
EXAMINATION PURSUANT TO  
FEDERAL RULE OF  
BANKRUPTCY PROCEDURE 2004**

[No hearing required]

Pursuant to Federal Rule of Bankruptcy Procedure 2004, the USACM Liquidating Trust (the "Trust" or "Movant") hereby moves this Court for an order requiring Bank of America, N.A. ("BoFA") to produce a custodian of documents and a corporate representative, as set forth in subpoenas issued under Federal Rule of Bankruptcy

1 Procedure 9016, to appear for examination at the law office of Lewis and Roca, LLP, 3993  
 2 Howard Hughes Parkway, Suite 600, Las Vegas, Nevada 89169, on a business day no  
 3 earlier than ten (10) business days after the filing of this Motion and no later than April 30,  
 4 2007, or at such other mutually agreeable location, date, and time, and continuing from  
 5 day to day thereafter until completed  
 6

7 This Motion is further explained in the following Memorandum

8 Memorandum

9  
 10 The Movant seeks information concerning legal services performed by BofA on  
 11 behalf of USACM, the other debtors in the above-captioned cases (together with USACM,  
 12 the "Debtors"), and the Debtors' affiliates, subsidiaries, parents, or otherwise related  
 13 entities. The Movant seeks this information to assist in the collection of the assets and the  
 14 investigation of the liabilities of the Debtors.  
 15

16 The requested discovery from BofA is well within the scope of examination  
 17 permitted under Bankruptcy Rule 2004, which includes:

18 [t]he acts, conduct, or property or . . . the liabilities and financial condition  
 19 of the debtor, or . . . any matter which may affect the administration of the  
 20 debtor's estate, or to the debtor's right to a discharge. In a . . .  
 21 reorganization case under chapter 11 of the Code, . . . the examination may  
 22 also relate to the operation of any business and the desirability of its  
 23 continuance, the source of any money or property acquired or to be acquired  
 24 by the debtor for purposes of consummating a plan and the consideration  
 25 given or offered therefore, and any other matter relevant to the case or to the  
 26 formulation of a plan.<sup>1</sup>

<sup>1</sup> FED.R. BANKR. P. 2004(b).

**Conclusion**

Accordingly, the Movant requests that this Court enter the form of order submitted with this Motion

Dated: April 9, 2007.

**DIAMOND MCCARTHY LLP**

**LEWIS AND ROCA LLP**

By: /s/ Eric D. Madden

By: /s/ Rob Charles

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Counsel for USACM Liquidating Trust

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA**

In re:

USA COMMERCIAL MORTGAGE  
COMPANY,

USA CAPITAL REALTY ADVISORS,  
LLC,

USA CAPITAL DIVERSIFIED TRUST  
DEED FUND, LLC,

USA CAPITAL FIRST TRUST DEED  
FUND, LLC,

USA SECURITIES, LLC,

Debtors.

**Affects:**

- ☐ All Debtors
- ☒ USA Commercial Mortgage Company
- ☐ USA Capital Realty Advisors, LLC
- ☐ USA Capital Diversified Trust Deed Fund, LLC
- ☐ USA Capital First Trust Deed Fund, LLC
- ☐ USA Securities, LLC

Case No. BK-S-06-10725-LBR  
Case No. BK-S-06-10726-LBR  
Case No. BK-S-06-10727-LBR  
Case No. BK-S-06-10728-LBR  
Case No. BK-S-06-10729-LBR

**CHAPTER 11**

Jointly Administered Under Case No.  
BK-S-06-10725 LBR

**MOTION FOR ORDER REQUIRING  
BANK OF COMMERCE TO  
PRODUCE A CUSTODIAN OF  
DOCUMENTS AND A CORPORATE  
REPRESENTATIVE FOR  
EXAMINATION PURSUANT TO  
FEDERAL RULE OF  
BANKRUPTCY PROCEDURE 2004**

[No hearing required]

Pursuant to Federal Rule of Bankruptcy Procedure 2004, the USACM Liquidating Trust (the "Trust" or "Movant") hereby moves this Court for an order requiring Bank of Commerce ("BofC") to produce a custodian of documents and a corporate representative, as set forth in subpoenas issued under Federal Rule of Bankruptcy Procedure 9016, to

1 appear for examination at the law office of Lewis and Roca, LLP, 3993 Howard Hughes  
2 Parkway, Suite 600, Las Vegas, Nevada 89169, on a business day no earlier than ten (10)  
3 business days after the filing of this Motion and no later than April 30, 2007, or at such  
4 other mutually agreeable location, date, and time, and continuing from day to day  
5 thereafter until completed  
6

7 This Motion is further explained in the following Memorandum.

8  
9 Memorandum

10 The Movant seeks information concerning legal services performed by BofC on  
11 behalf of USACM, the other debtors in the above-captioned cases (together with USACM,  
12 the "Debtors"), and the Debtors' affiliates, subsidiaries, parents, or otherwise related  
13 entities. The Movant seeks this information to assist in the collection of the assets and the  
14 investigation of the liabilities of the Debtors.  
15

16 The requested discovery from BofC is well within the scope of examination  
17 permitted under Bankruptcy Rule 2004, which includes:

18 [t]he acts, conduct, or property or ... the liabilities and financial condition  
19 of the debtor, or ... any matter which may affect the administration of the  
20 debtor's estate, or to the debtor's right to a discharge. In a ...  
21 reorganization case under chapter 11 of the Code, ... the examination may  
22 also relate to the operation of any business and the desirability of its  
23 continuance, the source of any money or property acquired or to be acquired  
24 by the debtor for purposes of consummating a plan and the consideration  
25 given or offered therefore, and any other matter relevant to the case or to the  
26 formulation of a plan<sup>1</sup>

<sup>1</sup> FED R. BANKR. P. 2004(b)

**Conclusion**

Accordingly, the Movant requests that this Court enter the form of order submitted with this Motion

Dated: April 9, 2007

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**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA**

In re:

USA COMMERCIAL MORTGAGE  
COMPANY,

USA CAPITAL REALTY ADVISORS,  
LLC,

USA CAPITAL DIVERSIFIED TRUST  
DEED FUND, LLC,

USA CAPITAL FIRST TRUST DEED  
FUND, LLC,

USA SECURITIES, LLC,

Debtors.

**Affects:**

- ☐ All Debtors
- ☒ USA Commercial Mortgage Company
- ☐ USA Capital Realty Advisors, LLC
- ☐ USA Capital Diversified Trust Deed Fund, LLC
- ☐ USA Capital First Trust Deed Fund, LLC
- ☐ USA Securities, LLC

Case No. BK-S-06-10725-LBR  
Case No. BK-S-06-10726-LBR  
Case No. BK-S-06-10727-LBR  
Case No. BK-S-06-10728-LBR  
Case No. BK-S-06-10729-LBR

**CHAPTER 11**

Jointly Administered Under Case No.  
BK-S-06-10725 LBR

**MOTION FOR ORDER REQUIRING  
NEVADA STATE BANK TO  
PRODUCE A CUSTODIAN OF  
DOCUMENTS AND A CORPORATE  
REPRESENTATIVE FOR  
EXAMINATION PURSUANT TO  
FEDERAL RULE OF  
BANKRUPTCY PROCEDURE 2004**

[No hearing required]

Pursuant to Federal Rule of Bankruptcy Procedure 2004, the USACM Liquidating Trust (the "Trust" or "Movant") hereby moves this Court for an order requiring Nevada State Bank ("NSB") to produce a custodian of documents and a corporate representative, as set forth in subpoenas issued under Federal Rule of Bankruptcy Procedure 9016, to



1 appear for examination at the law office of Lewis and Roca, LLP, 3993 Howard Hughes  
 2 Parkway, Suite 600, Las Vegas, Nevada 89169, on a business day no earlier than ten (10)  
 3 business days after the filing of this Motion and no later than April 30, 2007, or at such  
 4 other mutually agreeable location, date, and time, and continuing from day to day  
 5 thereafter until completed.

7 This Motion is further explained in the following Memorandum

8 Memorandum

9  
 10 The Movant seeks information concerning legal services performed by NSB on  
 11 behalf of USACM, the other debtors in the above-captioned cases (together with USACM,  
 12 the "Debtors"), and the Debtors' affiliates, subsidiaries, parents, or otherwise related  
 13 entities. The Movant seeks this information to assist in the collection of the assets and the  
 14 investigation of the liabilities of the Debtors.

15  
 16 The requested discovery from NSB is well within the scope of examination  
 17 permitted under Bankruptcy Rule 2004, which includes:

18 [t]he acts, conduct, or property or ... the liabilities and financial condition  
 19 of the debtor, or ... any matter which may affect the administration of the  
 20 debtor's estate, or to the debtor's right to a discharge. In a ...  
 21 reorganization case under chapter 11 of the Code, ... the examination may  
 22 also relate to the operation of any business and the desirability of its  
 23 continuance, the source of any money or property acquired or to be acquired  
 24 by the debtor for purposes of consummating a plan and the consideration  
 25 given or offered therefore, and any other matter relevant to the case or to the  
 26 formulation of a plan<sup>1</sup>

<sup>1</sup> FED.R. BANKR. P. 2004(b).

**Conclusion**

Accordingly, the Movant requests that this Court enter the form of order submitted with this Motion.

Dated: April 9, 2007.

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Counsel for USACM Liquidating Trust

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA**

In re:

USA COMMERCIAL MORTGAGE  
COMPANY,

USA CAPITAL REALTY ADVISORS,  
LLC,

USA CAPITAL DIVERSIFIED TRUST  
DEED FUND, LLC,

USA CAPITAL FIRST TRUST DEED  
FUND, LLC,

USA SECURITIES, LLC,

Debtors

**Affects:**

- ☐ All Debtors
- ☒ USA Commercial Mortgage Company
- ☐ USA Capital Realty Advisors, LLC
- ☐ USA Capital Diversified Trust Deed Fund, LLC
- ☐ USA Capital First Trust Deed Fund, LLC
- ☐ USA Securities, LLC

Case No BK-S-06-10725-LBR  
Case No BK-S-06-10726-LBR  
Case No BK-S-06-10727-LBR  
Case No BK-S-06-10728-LBR  
Case No BK-S-06-10729-LBR

**CHAPTER 11**

Jointly Administered Under Case No.  
BK-S-06-10725 LBR

**MOTION FOR ORDER REQUIRING  
JPMORGAN CHASE BANK, N.A. TO  
PRODUCE A CUSTODIAN OF  
DOCUMENTS AND A CORPORATE  
REPRESENTATIVE FOR  
EXAMINATION PURSUANT TO  
FEDERAL RULE OF  
BANKRUPTCY PROCEDURE 2004**

[No hearing required]

Pursuant to Federal Rule of Bankruptcy Procedure 2004, the USACM Liquidating Trust (the "Trust" or "Movant") hereby moves this Court for an order requiring JPMorgan Chase Bank, f/k/a Bank One, N.A. ("Chase") to produce a custodian of documents and a corporate representative, as set forth in subpoenas issued under Federal Rule of

1 Bankruptcy Procedure 9016, to appear for examination at the law office of Lewis and  
 2 Roca, LLP, 3993 Howard Hughes Parkway, Suite 600, Las Vegas, Nevada 89169, on a  
 3 business day no earlier than ten (10) business days after the filing of this Motion and no  
 4 later than April 30, 2007, or at such other mutually agreeable location, date, and time, and  
 5 continuing from day to day thereafter until completed.  
 6

7 This Motion is further explained in the following Memorandum.

8 Memorandum

9  
 10 The Movant seeks information concerning legal services performed by Wells Fargo  
 11 on behalf of USACM, the other debtors in the above-captioned cases (together with  
 12 USACM, the "Debtors"), and the Debtors' affiliates, subsidiaries, parents, or otherwise  
 13 related entities. The Movant seeks this information to assist in the collection of the assets  
 14 and the investigation of the liabilities of the Debtors.  
 15

16 The requested discovery from Wells Fargo is well within the scope of examination  
 17 permitted under Bankruptcy Rule 2004, which includes:

18 [t]he acts, conduct, or property or . . . the liabilities and financial condition  
 19 of the debtor, or . . . any matter which may affect the administration of the  
 20 debtor's estate, or to the debtor's right to a discharge. In a  
 21 reorganization case under chapter 11 of the Code, . . . the examination may  
 22 also relate to the operation of any business and the desirability of its  
 23 continuance, the source of any money or property acquired or to be acquired  
 24 by the debtor for purposes of consummating a plan and the consideration  
 25 given or offered therefore, and any other matter relevant to the case or to the  
 26 formulation of a plan.<sup>1</sup>

<sup>1</sup> FED.R. BANKR. P. 2004(b)

**Conclusion**

Accordingly, the Movant requests that this Court enter the form of order submitted with this Motion.

Dated: April 9, 2007.

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Counsel for USACM Liquidating Trust

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA**

In re:

**USA COMMERCIAL MORTGAGE  
COMPANY,**

**USA CAPITAL REALTY ADVISORS,  
LLC,**

**USA CAPITAL DIVERSIFIED TRUST  
DEED FUND, LLC,**

**USA CAPITAL FIRST TRUST DEED  
FUND, LLC,**

**USA SECURITIES, LLC,** Debtors

**Affects:**

- ☐ All Debtors
- ☒ USA Commercial Mortgage Company
- ☐ USA Capital Realty Advisors, LLC
- ☐ USA Capital Diversified Trust Deed Fund, LLC
- ☐ USA Capital First Trust Deed Fund, LLC
- ☐ USA Securities, LLC

Case No. BK-S-06-10725-LBR  
Case No. BK-S-06-10726-LBR  
Case No. BK-S-06-10727-LBR  
Case No. BK-S-06-10728-LBR  
Case No. BK-S-06-10729-LBR

**CHAPTER 11**

Jointly Administered Under Case No.  
BK-S-06-10725 LBR

**MOTION FOR ORDER REQUIRING  
WELLS FARGO BANK NEVADA,  
N.A. TO PRODUCE A CUSTODIAN  
OF DOCUMENTS AND A  
CORPORATE REPRESENTATIVE  
FOR EXAMINATION PURSUANT  
TO FEDERAL RULE OF  
BANKRUPTCY PROCEDURE 2004**

[No hearing required]

Pursuant to Federal Rule of Bankruptcy Procedure 2004, the USACM Liquidating Trust (the "Trust" or "Movant") hereby moves this Court for an order requiring Wells Fargo Bank Nevada, N.A. ("Wells Fargo") to produce a custodian of documents and a corporate representative, as set forth in subpoenas issued under Federal Rule of

1 Bankruptcy Procedure 9016, to appear for examination at the law office of Lewis and  
2 Roca, LLP, 3993 Howard Hughes Parkway, Suite 600, Las Vegas, Nevada 89169, on a  
3 business day no earlier than ten (10) business days after the filing of this Motion and no  
4 later than April 30, 2007, or at such other mutually agreeable location, date, and time, and  
5 continuing from day to day thereafter until completed  
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7 This Motion is further explained in the following Memorandum.

8 Memorandum

9  
10 The Movant seeks information concerning legal services performed by Wells Fargo  
11 on behalf of USACM, the other debtors in the above-captioned cases (together with  
12 USACM, the "Debtors"), and the Debtors' affiliates, subsidiaries, parents, or otherwise  
13 related entities. The Movant seeks this information to assist in the collection of the assets  
14 and the investigation of the liabilities of the Debtors  
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16 The requested discovery from Wells Fargo is well within the scope of examination  
17 permitted under Bankruptcy Rule 2004, which includes:

18 [t]he acts, conduct, or property or . . . the liabilities and financial condition  
19 of the debtor, or . . . any matter which may affect the administration of the  
20 debtor's estate, or to the debtor's right to a discharge. In a  
21 reorganization case under chapter 11 of the Code, . . . the examination may  
22 also relate to the operation of any business and the desirability of its  
23 continuance, the source of any money or property acquired or to be acquired  
24 by the debtor for purposes of consummating a plan and the consideration  
25 given or offered therefore, and any other matter relevant to the case or to the  
26 formulation of a plan.

<sup>1</sup> FED.R. BANKR. P. 2004(b).

**Conclusion**

Accordingly, the Movant requests that this Court enter the form of order submitted with this Motion

Dated: April 9, 2007

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Counsel for USACM Liquidating Trust

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA**

In re:

USA COMMERCIAL MORTGAGE  
COMPANY,

USA CAPITAL REALTY ADVISORS,  
LLC,

USA CAPITAL DIVERSIFIED TRUST  
DEED FUND, LLC,

USA CAPITAL FIRST TRUST DEED  
FUND, LLC,

USA SECURITIES, LLC,

Debtors.

**Affects:**

- ☐ All Debtors
- ☒ USA Commercial Mortgage Company
- ☐ USA Capital Realty Advisors, LLC
- ☐ USA Capital Diversified Trust Deed Fund, LLC
- ☐ USA Capital First Trust Deed Fund, LLC
- ☐ USA Securities, LLC

Case No. BK-S-06-10725-LBR  
Case No. BK-S-06-10726-LBR  
Case No. BK-S-06-10727-LBR  
Case No. BK-S-06-10728-LBR  
Case No. BK-S-06-10729-LBR

**CHAPTER 11**

Jointly Administered Under Case No.  
BK-S-06-10725 LBR

**MOTION FOR ORDER REQUIRING  
BANK OF THE WEST TO  
PRODUCE A CUSTODIAN OF  
DOCUMENTS AND A CORPORATE  
REPRESENTATIVE FOR  
EXAMINATION PURSUANT TO  
FEDERAL RULE OF  
BANKRUPTCY PROCEDURE 2004**

[No hearing required]

Pursuant to Federal Rule of Bankruptcy Procedure 2004, the USACM Liquidating Trust (the "Trust" or "Movant") hereby moves this Court for an order requiring Bank of the West ("BofW") to produce a custodian of documents and a corporate representative, as set forth in subpoenas issued under Federal Rule of Bankruptcy Procedure 9016, to appear

1 for examination at the law office of Lewis and Roca, LLP, 3993 Howard Hughes Parkway,  
 2 Suite 600, Las Vegas, Nevada 89169, on a business day no earlier than ten (10) business  
 3 days after the filing of this Motion and no later than April 30, 2007, or at such other  
 4 mutually agreeable location, date, and time, and continuing from day to day thereafter  
 5 until completed.

7 This Motion is further explained in the following Memorandum

8 Memorandum

9  
 10 The Movant seeks information concerning legal services performed by BofW on  
 11 behalf of USACM, the other debtors in the above-captioned cases (together with USACM,  
 12 the "Debtors"), and the Debtors' affiliates, subsidiaries, parents, or otherwise related  
 13 entities. The Movant seeks this information to assist in the collection of the assets and the  
 14 investigation of the liabilities of the Debtors.

15  
 16 The requested discovery from BofW is well within the scope of examination  
 17 permitted under Bankruptcy Rule 2004, which includes:

18 [t]he acts, conduct, or property or . . . the liabilities and financial condition  
 19 of the debtor, or . . . any matter which may affect the administration of the  
 20 debtor's estate, or to the debtor's right to a discharge. In a . . .  
 21 reorganization case under chapter 11 of the Code, . . . the examination may  
 22 also relate to the operation of any business and the desirability of its  
 23 continuance, the source of any money or property acquired or to be acquired  
 24 by the debtor for purposes of consummating a plan and the consideration  
 25 given or offered therefore, and any other matter relevant to the case or to the  
 26 formulation of a plan.

<sup>1</sup> FED R. BANKR. P. 2004(b)

**Conclusion**

Accordingly, the Movant requests that this Court enter the form of order submitted with this Motion

Dated: April 9, 2007.

**DIAMOND MCCARTHY LLP**

**LEWIS AND ROCA LLP**

By: /s/ Eric D. Madden

By: /s/ Rob Charles

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William I. Reid, IV, TX 00788817 (pro hac vice)  
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Counsel for USACM Liquidating Trust

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA**

In re:

USA COMMERCIAL MORTGAGE  
COMPANY,

USA CAPITAL REALTY ADVISORS,  
LLC,

USA CAPITAL DIVERSIFIED TRUST  
DEED FUND, LLC,

USA CAPITAL FIRST TRUST DEED  
FUND, LLC,

USA SECURITIES, LLC,

Debtors

**Affects:**

- ☐ All Debtors
- ☒ USA Commercial Mortgage Company
- ☐ USA Capital Realty Advisors, LLC
- ☐ USA Capital Diversified Trust Deed Fund, LLC
- ☐ USA Capital First Trust Deed Fund, LLC
- ☐ USA Securities, LLC

Case No. BK-S-06-10725-LBR  
Case No. BK-S-06-10726-LBR  
Case No. BK-S-06-10727-LBR  
Case No. BK-S-06-10728-LBR  
Case No. BK-S-06-10729-LBR

**CHAPTER 11**

Jointly Administered Under Case No.  
BK-S-06-10725 LBR

**MOTION FOR ORDER REQUIRING  
OPPENHEIMER FUNDS TO  
PRODUCE A CUSTODIAN OF  
DOCUMENTS AND A CORPORATE  
REPRESENTATIVE FOR  
EXAMINATION PURSUANT TO  
FEDERAL RULE OF  
BANKRUPTCY PROCEDURE 2004**

[No hearing required]

Pursuant to Federal Rule of Bankruptcy Procedure 2004, the USACM Liquidating Trust (the "Trust" or "Movant") hereby moves this Court for an order requiring Oppenheimer Funds ("Oppenheimer") to produce a custodian of documents and a corporate representative, as set forth in subpoenas issued under Federal Rule of

1 Bankruptcy Procedure 9016, to appear for examination at the law office of Lewis and  
 2 Roca, LLP, 3993 Howard Hughes Parkway, Suite 600, Las Vegas, Nevada 89169, on a  
 3 business day no earlier than ten (10) business days after the filing of this Motion and no  
 4 later than April 30, 2007, or at such other mutually agreeable location, date, and time, and  
 5 continuing from day to day thereafter until completed.  
 6

7 This Motion is further explained in the following Memorandum

8 Memorandum

9  
 10 The Movant seeks information concerning legal services performed by  
 11 Oppenheimer on behalf of USACM, the other debtors in the above-captioned cases  
 12 (together with USACM, the "Debtors"), and the Debtors' affiliates, subsidiaries, parents,  
 13 or otherwise related entities. The Movant seeks this information to assist in the collection  
 14 of the assets and the investigation of the liabilities of the Debtors  
 15

16 The requested discovery from Oppenheimer is well within the scope of examination  
 17 permitted under Bankruptcy Rule 2004, which includes:

18 [t]he acts, conduct, or property or . . . the liabilities and financial condition  
 19 of the debtor, or . . . any matter which may affect the administration of the  
 20 debtor's estate, or to the debtor's right to a discharge. In a . . .  
 21 reorganization case under chapter 11 of the Code, . . . the examination may  
 22 also relate to the operation of any business and the desirability of its  
 23 continuance, the source of any money or property acquired or to be acquired  
 24 by the debtor for purposes of consummating a plan and the consideration  
 25 given or offered therefore, and any other matter relevant to the case or to the  
 26 formulation of a plan.

<sup>1</sup> FED.R. BANKR. P 2004(b)

**Conclusion**

Accordingly, the Movant requests that this Court enter the form of order submitted with this Motion.

Dated: April 9, 2007.

**DIAMOND MCCARTHY LLP**

**LEWIS AND ROCA LLP**

By: /s/ Eric D. Madden

By: /s/ Rob Charles

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Counsel for USACM Liquidating Trust

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA**

In re:

USA COMMERCIAL MORTGAGE  
COMPANY,

USA CAPITAL REALTY ADVISORS,  
LLC,

USA CAPITAL DIVERSIFIED TRUST  
DEED FUND, LLC,

USA CAPITAL FIRST TRUST DEED  
FUND, LLC,

USA SECURITIES, LLC,

Debtors.

**Affects:**

- ☐ All Debtors
- ☒ USA Commercial Mortgage Company
- ☐ USA Capital Realty Advisors, LLC
- ☐ USA Capital Diversified Trust Deed Fund, LLC
- ☐ USA Capital First Trust Deed Fund, LLC
- ☐ USA Securities, LLC

Case No. BK-S-06-10725-LBR  
Case No. BK-S-06-10726-LBR  
Case No. BK-S-06-10727-LBR  
Case No. BK-S-06-10728-LBR  
Case No. BK-S-06-10729-LBR

**CHAPTER 11**

Jointly Administered Under Case No.  
BK-S-06-10725 LBR

**MOTION FOR ORDER REQUIRING  
CITIBANK (NEVADA), N.A. TO  
PRODUCE A CUSTODIAN OF  
DOCUMENTS AND A CORPORATE  
REPRESENTATIVE FOR  
EXAMINATION PURSUANT TO  
FEDERAL RULE OF  
BANKRUPTCY PROCEDURE 2004**

[No hearing required]

Pursuant to Federal Rule of Bankruptcy Procedure 2004, the USACM Liquidating Trust (the "Trust" or "Movant") hereby moves this Court for an order requiring CitiBank (Nevada), N.A. ("CitiBank") to produce a custodian of documents and a corporate representative, as set forth in subpoenas issued under Federal Rule of Bankruptcy

1 Procedure 9016, to appear for examination at the law office of Lewis and Roca, LLP, 3993  
 2 Howard Hughes Parkway, Suite 600, Las Vegas, Nevada 89169, on a business day no  
 3 earlier than ten (10) business days after the filing of this Motion and no later than April 30,  
 4 2007, or at such other mutually agreeable location, date, and time, and continuing from  
 5 day to day thereafter until completed  
 6

7 This Motion is further explained in the following Memorandum

8 Memorandum

9  
 10 The Movant seeks information concerning legal services performed by CitiBank on  
 11 behalf of USACM, the other debtors in the above-captioned cases (together with USACM,  
 12 the "Debtors"), and the Debtors' affiliates, subsidiaries, parents, or otherwise related  
 13 entities. The Movant seeks this information to assist in the collection of the assets and the  
 14 investigation of the liabilities of the Debtors.  
 15

16 The requested discovery from CitiBank is well within the scope of examination  
 17 permitted under Bankruptcy Rule 2004, which includes:

18 [t]he acts, conduct, or property or ... the liabilities and financial condition  
 19 of the debtor, or ... any matter which may affect the administration of the  
 20 debtor's estate, or to the debtor's right to a discharge. In a ...  
 21 reorganization case under chapter 11 of the Code, ... the examination may  
 22 also relate to the operation of any business and the desirability of its  
 23 continuance, the source of any money or property acquired or to be acquired  
 24 by the debtor for purposes of consummating a plan and the consideration  
 25 given or offered therefore, and any other matter relevant to the case or to the  
 26 formulation of a plan<sup>1</sup>

<sup>1</sup> FED R BANKR. P 2004(b).



**Conclusion**

Accordingly, the Movant requests that this Court enter the form of order submitted with this Motion.

Dated: April 9, 2007.

**DIAMOND MCCARTHY LLP**

**LEWIS AND ROCA LLP**

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By: /s/ Rob Charles

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Counsel for USACM Liquidating Trust

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA**

In re:

USA COMMERCIAL MORTGAGE  
COMPANY,

USA CAPITAL REALTY ADVISORS,  
LLC,

USA CAPITAL DIVERSIFIED TRUST  
DEED FUND, LLC,

USA CAPITAL FIRST TRUST DEED  
FUND, LLC,

USA SECURITIES, LLC,

Debtors

**Affects:**

- ☐ All Debtors
- ☒ USA Commercial Mortgage Company
- ☐ USA Capital Realty Advisors, LLC
- ☐ USA Capital Diversified Trust Deed Fund, LLC
- ☐ USA Capital First Trust Deed Fund, LLC
- ☐ USA Securities, LLC

Case No. BK-S-06-10725-LBR  
Case No. BK-S-06-10726-LBR  
Case No. BK-S-06-10727-LBR  
Case No. BK-S-06-10728-LBR  
Case No. BK-S-06-10729-LBR

**CHAPTER 11**

Jointly Administered Under Case No.  
BK-S-06-10725 LBR

**MOTION FOR ORDER REQUIRING  
DESERT COMMUNITY BANK TO  
PRODUCE A CUSTODIAN OF  
DOCUMENTS AND A CORPORATE  
REPRESENTATIVE FOR  
EXAMINATION PURSUANT TO  
FEDERAL RULE OF  
BANKRUPTCY PROCEDURE 2004**

[No hearing required]

Pursuant to Federal Rule of Bankruptcy Procedure 2004, the USACM Liquidating Trust (the "Trust" or "Movant") hereby moves this Court for an order requiring Desert Community Bank ("DCB") to produce a custodian of documents and a corporate representative, as set forth in subpoenas issued under Federal Rule of Bankruptcy

1 Procedure 9016, to appear for examination at the law office of Lewis and Roca, LLP, 3993  
 2 Howard Hughes Parkway, Suite 600, Las Vegas, Nevada 89169, on a business day no  
 3 earlier than ten (10) business days after the filing of this Motion and no later than April 30,  
 4 2007, or at such other mutually agreeable location, date, and time, and continuing from  
 5 day to day thereafter until completed.  
 6

7 This Motion is further explained in the following Memorandum

8 Memorandum

9  
 10 The Movant seeks information concerning legal services performed by DCB on  
 11 behalf of USACM, the other debtors in the above-captioned cases (together with USACM,  
 12 the "Debtors"), and the Debtors' affiliates, subsidiaries, parents, or otherwise related  
 13 entities. The Movant seeks this information to assist in the collection of the assets and the  
 14 investigation of the liabilities of the Debtors  
 15

16 The requested discovery from DCB is well within the scope of examination  
 17 permitted under Bankruptcy Rule 2004, which includes:

18 [t]he acts, conduct, or property or . . . the liabilities and financial condition  
 19 of the debtor, or . . . any matter which may affect the administration of the  
 20 debtor's estate, or to the debtor's right to a discharge. In a  
 21 reorganization case under chapter 11 of the Code, . . . the examination may  
 22 also relate to the operation of any business and the desirability of its  
 23 continuance, the source of any money or property acquired or to be acquired  
 24 by the debtor for purposes of consummating a plan and the consideration  
 25 given or offered therefore, and any other matter relevant to the case or to the  
 26 formulation of a plan.<sup>1</sup>

<sup>1</sup> FED R. BANKR. P. 2004(b).

LEWIS  
AND  
ROCA  
LLP  
LAWYERS

E-Filed on 3/6/07

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Attorneys for Official Committee of Unsecured Creditors of  
USA Commercial Mortgage Company

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA**

In re:

USA COMMERCIAL MORTGAGE  
COMPANY,

USA CAPITAL REALTY ADVISORS,  
LLC,

USA CAPITAL DIVERSIFIED TRUST  
DEED FUND, LLC,

USA CAPITAL FIRST TRUST DEED  
FUND, LLC,

USA SECURITIES, LLC,

Debtors.

**Affects:**

- ☒ All Debtors
- ☐ USA Commercial Mortgage Company
- ☐ USA Capital Realty Advisors, LLC
- ☐ USA Capital Diversified Trust Deed Fund, LLC
- ☐ USA Capital First Trust Deed Fund, LLC
- ☐ USA Securities, LLC

Case No. BK-S-06-10725-LBR  
Case No. BK-S-06-10726-LBR  
Case No. BK-S-06-10727-LBR  
Case No. BK-S-06-10728-LBR  
Case No. BK-S-06-10729-LBR

**CHAPTER 11**

Jointly Administered Under Case No.  
BK-S-06-10725 LBR

**SECOND AMENDED MOTION FOR  
ORDER REQUIRING WELLS  
FARGO BANK, N.A. TO PRODUCE  
ONE OR MORE CORPORATE  
REPRESENTATIVES FOR  
EXAMINATION PURSUANT TO  
FEDERAL RULE OF  
BANKRUPTCY PROCEDURE 2004  
(Amended to Remove Exhibit)**

[No hearing required]

Pursuant to Federal Rule of Bankruptcy Procedure 2004, the Official Committee of Unsecured Creditors of USA Commercial Mortgage Company ("UCC" or the "Movant")<sup>1</sup> hereby moves this Court for an order requiring Wells Fargo Bank, N.A. ("Wells Fargo") to produce one or more corporate representatives, as set forth in subpoenas issued under Federal Rule Bankruptcy Procedure 9016, to appear for examination at the law office of

<sup>1</sup> Upon the effective date of the Joint Plan of Reorganization (the "Plan"), the UCC will cease to exist and the USACM Liquidating Trust will be substituted in for the UCC as to this Motion.

LEWIS  
AND  
ROCA  
LLP  
I A W Y E R S

Lewis and Roca, LLP, 3993 Howard Hughes Parkway, Suite 600, Las Vegas, NV 89169, on a business day no earlier than ten (10) business days after the filing of this Motion and no later than April 30, 2007, or at such other mutually agreeable location, date, and time, and continuing from day to day thereafter until completed.

This Motion is further explained in the following Memorandum.

### **Memorandum**

The Movant seeks information concerning the financial services, wire transfers, and other services performed by Wells Fargo for USACM, the other debtors in the above-captioned cases (together with USACM, the "Debtors"), and the Debtors' affiliates, subsidiaries, parents, or otherwise related entities. The Movant seeks this information to assist in the collection of the assets and the investigation of the liabilities of the Debtors.

The requested discovery from Wells Fargo is well within the scope of examination permitted under Bankruptcy Rule 2004, which includes:

[t]he acts, conduct, or property or . . . the liabilities and financial condition of the debtor, or . . . any matter which may affect the administration of the debtor's estate, or to the debtor's right to a discharge. In a . . . reorganization case under chapter 11 of the Code, . . . the examination may also relate to the operation of any business and the desirability of its continuance, the source of any money or property acquired or to be acquired by the debtor for purposes of consummating a plan and the consideration given or offered therefore, and any other matter relevant to the case or to the formulation of a plan.<sup>2</sup>

### **Conclusion**

Accordingly, the Movant requests that this Court enter the form of order submitted with this Motion.

---

<sup>2</sup> FED. R. BANKR. P. 2004(b).

LEWIS  
AND  
ROCA  
LLP  
LAWYERS

Dated: March 6, 2007.

**LEWIS AND ROCA LLP**

By /s/ RC (#006593)

Susan M. Freeman, AZ 4199 (pro hac vice)

Rob Charles, NV 6593

*Attorneys for Official Unsecured Creditors' Committee  
of USA Commercial Mortgage Company*

-and-

**DIAMOND MCCARTHY TAYLOR FINLEY & LEE  
LLP**

By: /s/ Eric D. Madden (pro hac vice)

Allan B. Diamond, TX 05801800 (pro hac vice)

William T. Reid, IV, TX 00788817 (pro hac vice)

Eric D. Madden, TX 24013079 (pro hac vice)

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*Special Litigation Counsel for Official Committee of  
Unsecured Creditors of USA Commercial Mortgage  
Company*

E-Filed on 04/26/07

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Special Litigation Counsel for USACM Liquidating Trust

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Counsel for USACM Liquidating Trust

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA**

In re:

USA COMMERCIAL MORTGAGE  
COMPANY,

USA CAPITAL REALTY ADVISORS,  
LLC,

USA CAPITAL DIVERSIFIED TRUST  
DEED FUND, LLC,

USA CAPITAL FIRST TRUST DEED  
FUND, LLC,

USA SECURITIES, LLC,

Debtors.

**Affects:**

- ☐ All Debtors
- ☒ USA Commercial Mortgage Company
- ☐ USA Capital Realty Advisors, LLC
- ☐ USA Capital Diversified Trust Deed Fund, LLC
- ☐ USA Capital First Trust Deed Fund, LLC
- ☐ USA Securities, LLC

Case No. BK-S-06-10725-LBR  
Case No. BK-S-06-10726-LBR  
Case No. BK-S-06-10727-LBR  
Case No. BK-S-06-10728-LBR  
Case No. BK-S-06-10729-LBR

**CHAPTER 11**

Jointly Administered Under Case No.  
BK-S-06-10725 LBR

**MOTION FOR ORDER REQUIRING  
KREG ROWE TO APPEAR FOR  
EXAMINATION PURSUANT TO  
FEDERAL RULE OF  
BANKRUPTCY PROCEDURE 2004**

[No hearing required]

Pursuant to Federal Rule of Bankruptcy Procedure 2004, the USACM Liquidating Trust (the "Trust" or "Movant") hereby moves this Court for an order requiring Kreg Rowe ("Rowe") to appear, as set forth in the subpoena to be issued under Federal Rule of Bankruptcy Procedure 9016, to appear for examination at the office of Esquire Deposition

1 Services, 1 East Liberty Street, 6<sup>th</sup> Floor, Reno, Nevada 89504, on a business day no  
 2 earlier than ten (10) business days after the filing of this Motion and no later than May 25,  
 3 2007 (or at such other mutually agreeable location, date, and time) and continuing from  
 4 day to day thereafter until completed.  
 5

6 This Motion is further explained in the following Memorandum.

### 7 Memorandum

8 The Movant seeks information concerning various transactions and other dealings  
 9 between (1) Rowe and affiliated entities under his direct or indirect ownership and/or  
 10 control; and (2) USACM, the other debtors in the above-captioned cases (together with  
 11 USACM, the "Debtors"), and the Debtors' affiliates, subsidiaries, parents, or otherwise  
 12 related entities. The Movant seeks this information to assist in the collection of the assets  
 13 and the investigation of the liabilities of the Debtors.  
 14  
 15

16 The requested discovery from Rowe is well within the scope of examination  
 17 permitted under Bankruptcy Rule 2004, which includes:

18 [t]he acts, conduct, or property or . . . the liabilities and financial condition  
 19 of the debtor, or . . . any matter which may affect the administration of the  
 20 debtor's estate, or to the debtor's right to a discharge. In a . . .  
 21 reorganization case under chapter 11 of the Code, . . . the examination may  
 22 also relate to the operation of any business and the desirability of its  
 23 continuance, the source of any money or property acquired or to be acquired  
 24 by the debtor for purposes of consummating a plan and the consideration  
 25 given or offered therefore, and any other matter relevant to the case or to the  
 26 formulation of a plan.<sup>1</sup>

<sup>1</sup> FED. R. BANKR. P. 2004(b).



**Conclusion**

Accordingly, the Movant requests that this Court enter the form of order submitted with this Motion.

Dated: April 26, 2007.

**DIAMOND MCCARTHY LLP**

**LEWIS AND ROCA LLP**

By: /s/ Eric D. Madden  
Allan B. Diamond, TX 05801800 (pro hac vice)  
William T. Reid, IV, TX 00788817 (pro hac vice)  
Eric D. Madden, TX 24013079 (pro hac vice)  
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By: /s/ Rob Charles  
Susan M. Freeman, AZ 4199 (pro hac vice)  
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3993 Howard Hughes Parkway, Suite 600  
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(702) 949-8320 (telephone)  
(702) 949-8321 (facsimile)

*Special Litigation Counsel for USACM  
Liquidating Trust*

*Counsel for USACM Liquidating Trust*

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Motion has been served on April 26, 2007, by electronic transmission and by United States Mail, first class, postage prepaid and properly addressed to counsel for Kreg Rowe at the following address:

Kaaran Thomas  
McDonald Carano Wilson, LLP  
100 West Libert Street, 10<sup>th</sup> Floor  
Reno, NV 89505  
kthomas@mcdonaldcarano.com

/s/ Eric D. Madden  
Eric D. Madden

75

B254 (5/92) Subpoena for Rule 2004 Examination

**United States Bankruptcy Court**

DISTRICT OF NEVADA

**IN RE**

USA COMMERCIAL MORTGAGE COMPANY,  
 USA CAPITAL REALTY ADVISORS, LLC,  
 USA CAPITAL DIVERSIFIED TRUST DEED FUND LLC,  
 USA CAPITAL FIRST TRUST DEED FUND LLC,  
 USA SECURITIES, LLC,

DEBTORS.

AFFECTS: ALL DEBTORS

**SUBPOENA FOR RULE 2004 EXAMINATION**

CASE NOS. BK-S-06-10725 LBR  
BK-S-06-10726 LBR  
BK-S-06-10727 LBR  
BK-S-06-10728 LBR  
BK-S-06-10729 LBR

JOINTLY ADMINISTERED UNDER  
 CASE NO. BK-S-06-10725-LBR

TO: Kreg Rowe  
 c/o Kaaren Thomas  
 McDonald Carano Wilson LLP  
 100 West Liberty Street, 10<sup>th</sup> Floor  
 Reno, NV 89505

**X** YOU ARE COMMANDED to produce a corporate representative for examination under Federal Rule of Bankruptcy Procedure 2004, pursuant to the attached court order, regarding the following topics at the place, date and time specified below:

**SEE ATTACHED EXHIBIT A FOR TOPICS OF EXAMINATION****PLACE OF TESTIMONY**

ESQUIRE DEPOSITION SERVICES  
 1 EAST LIBERTY STREET, 6<sup>TH</sup> FLOOR  
 RENO, NEVADA 89504

**DATE AND TIME**

May 24, 2007 at 10:00 A.M.  
 (or such other mutually agreeable  
 date and/or time)

**X** YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below:


**SEE ATTACHED EXHIBIT B FOR DOCUMENTS REQUESTED****PLACE**

ESQUIRE DEPOSITION SERVICES  
 1 EAST LIBERTY STREET, 6<sup>TH</sup> FLOOR  
 RENO, NEVADO 89504

**DATE**

May 18, 2007 at 10:00 A.M.  
 (or such other mutually agreeable  
 date and/or time)

**ISSUING OFFICER SIGNATURE AND TITLE**

  
 Special Litigation Counsel for the USACM Liquidating Trust

**DATE**

May 4, 2007

**ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER**

ERIC D. MADDEN  
 DIAMOND MCCARTHY LLP  
 1201 ELM STREET, 34TH FLOOR  
 DALLAS, TEXAS 75270  
 (214) 389-5306

E-Filed on 04/26/07

**DIAMOND MCCARTHY LLP**

909 Fannin, Suite 1500  
Houston, Texas 77010  
Telephone (713) 333-5100  
Facsimile (713) 333-5199

Allan B. Diamond, TX State Bar No. 05801800  
Email: [adiamond@diamondmccarthy.com](mailto:adiamond@diamondmccarthy.com)  
Eric D. Madden, TX State Bar No. 24013079  
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Special Litigation Counsel for USACM Liquidating Trust

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Email: [rcharles@lrlaw.com](mailto:rcharles@lrlaw.com)

Counsel for USACM Liquidating Trust

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA**

In re:

USA COMMERCIAL MORTGAGE  
COMPANY,

USA CAPITAL REALTY ADVISORS,  
LLC,

USA CAPITAL DIVERSIFIED TRUST  
DEED FUND, LLC,

USA CAPITAL FIRST TRUST DEED  
FUND, LLC,

USA SECURITIES, LLC, Debtors.

**Affects:**

- ☐ All Debtors
- ☒ USA Commercial Mortgage Company
- ☐ USA Capital Realty Advisors, LLC
- ☐ USA Capital Diversified Trust Deed Fund, LLC
- ☐ USA Capital First Trust Deed Fund, LLC
- ☐ USA Securities, LLC

Case No. BK-S-06-10725-LBR  
Case No. BK-S-06-10726-LBR  
Case No. BK-S-06-10727-LBR  
Case No. BK-S-06-10728-LBR  
Case No. BK-S-06-10729-LBR

**CHAPTER 11**

Jointly Administered Under Case No.  
BK-S-06-10725 LBR

**MOTION FOR ORDER REQUIRING  
BRETT SEABERT TO APPEAR FOR  
EXAMINATION PURSUANT TO  
FEDERAL RULE OF  
BANKRUPTCY PROCEDURE 2004**

[No hearing required]

Pursuant to Federal Rule of Bankruptcy Procedure 2004, the USACM Liquidating Trust (the "Trust" or "Movant") hereby moves this Court for an order requiring Brett Seabert ("Seabert") to appear, as set forth in the subpoena to be issued under Federal Rule of Bankruptcy Procedure 9016, to appear for examination at the office of Esquire

1 Deposition Services, 1 East Liberty Street, 6<sup>th</sup> Floor, Reno, Nevada 89504, on a business  
 2 day no earlier than ten (10) business days after the filing of this Motion and no later than  
 3 May 25, 2007 (or at such other mutually agreeable location, date, and time) and continuing  
 4 from day to day thereafter until completed.  
 5

6 This Motion is further explained in the following Memorandum.

### 7 Memorandum

8 The Movant seeks information concerning various transactions and other dealings  
 9 between (1) Seabert and affiliated entities under his direct or indirect ownership and/or  
 10 control; and (2) USACM, the other debtors in the above-captioned cases (together with  
 11 USACM, the "Debtors"), and the Debtors' affiliates, subsidiaries, parents, or otherwise  
 12 related entities. The Movant seeks this information to assist in the collection of the assets  
 13 and the investigation of the liabilities of the Debtors.  
 14  
 15

16 The requested discovery from Seabert is well within the scope of examination  
 17 permitted under Bankruptcy Rule 2004, which includes:

18 [t]he acts, conduct, or property or . . . the liabilities and financial condition  
 19 of the debtor, or . . . any matter which may affect the administration of the  
 20 debtor's estate, or to the debtor's right to a discharge. In a . . .  
 21 reorganization case under chapter 11 of the Code, . . . the examination may  
 22 also relate to the operation of any business and the desirability of its  
 23 continuance, the source of any money or property acquired or to be acquired  
 24 by the debtor for purposes of consummating a plan and the consideration  
 25 given or offered therefore, and any other matter relevant to the case or to the  
 26 formulation of a plan.<sup>1</sup>

<sup>1</sup> FED.R. BANKR. P. 2004(b).

**Conclusion**

Accordingly, the Movant requests that this Court enter the form of order submitted with this Motion.

Dated: April 26, 2007.

**DIAMOND MCCARTHY LLP**

**LEWIS AND ROCA LLP**

By: /s/ Eric D. Madden  
Allan B Diamond, TX 05801800 (pro hac vice)  
William I. Reid, IV, TX 00788817 (pro hac vice)  
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*Special Litigation Counsel for USACM  
Liquidating Trust*

*Counsel for USACM Liquidating Trust*

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Motion has been served on April 26, 2007, by electronic transmission and by United States Mail, first class, postage prepaid and properly addressed to counsel for Brett Seabert at the following address:

Kaaran Thomas  
McDonald Carano Wilson, LLP  
100 West Libert Street, 10<sup>th</sup> Floor  
Reno, NV 89505  
[kthomas@mcdonaldcarano.com](mailto:kthomas@mcdonaldcarano.com)

/s/ Eric D. Madden  
Eric D. Madden